

The Maryland Board of Pharmacy
Public Minutes - October 20, 1999
Meeting Held at Frederick County Health Department

President Stanton Ades called the public meeting to order at 9:44 A.M.

In attendance were President Stanton Ades, Commissioners: W. Irving Lottier, Wayne Dyke, Ramona McCarthy Hawkins, Melvin Rubin, Barbara Faltz Jackson, Jeanne Furman, Laura Schneider, Donald Yee, David Russo and Dr. Raymond Love ; Board Counsel, Paul Ballard; Board Staff, PCO, Michelle Andoll, Secretary, Wendy Wilson, and PEP Student, Hyun J. Lee.

Commissioners absent: Rev. William Johnson

Guests present: Mike Nicholson, Steven Cohen, Dave Chason, Jack Freedman, Catherine Putz, Kathryn Lavriha, Dorothy Levi, Mike Johansen, Norene Pease and Dae H. Yim.

Recusals

Any member of the Board with a conflict of interest relating to an item on the agenda should notify the Board at this time.

None

Approval of Minutes

Page two (2), third paragraph, eight sentence, the word “cylinder” should be “cinder”. Page three (3), second paragraph, ninth sentence, change “acquired” to “required”, same paragraph, next to the last sentence, delete the question mark and add “change to renewal by birth month.” Page four (4), under Pharmacy Practice Committee Report, third paragraph, sixth sentence, “Internet pharmacy placing computers” strike the word “Internet”. Same paragraph, eighth sentence, delete “received a draft letter” and add “read a news report”. Same page, fourth paragraph, under “Expiration Dating for Investigational Drugs”, the word “expirational” should be “investigational”.

A motion was made by Mr. Russo to approve September 15, 1999 minutes as amended. The motion was seconded by Ms. Hawkins, with a unanimous decision from the Board.

Executive Director’s Report/Executive Committee Report

Office Space Meeting Report -

Mr. Rubin reported that Harold Gordon, Director of The Board of Social Work, presented to him a proposal that would double the Board's office space, adding the entire Dental Board area. Mr. Rubin stated that changes are being made daily, and that there are no binding decisions or contracts at this time.

Mr. Rubin reported that he and Dr. Love appeared before the Joint Legislature Committee on Health Care Delivery and Financing to discuss Internet sites and the status of the proposed Unlicensed Personnel regulations..

Mr Rubin reported that he and Dr Love appeared at a briefing for the Governor's staff in Annapolis to explain the readiness of pharmacy for Y2K.

Executive Officer's Conference -

Ms. Andoll presented to the Board a FYI report from the Executive Officer's Conference which was held September 26-29, 1999.

Meeting with BPQA delegation of duties to Physician Assistants -

Mr. Rubin reported that currently some physicians assistants are authorized to prescribe for hospital inpatients, but that emergency regulations will permit, under certain circumstances, for P.A.'s to prescribe for patients who will have the prescriptions filled in the community. Mr. Rubin stated that by next week he should know more about the regulations, which will allow P.A.'s who will be able to prescribe, to write prescriptions for any circumstance, unlike Nurse Practitioners who can only prescribe relative to their agreement with a physician (i.e. pediatric only or geriatric only).

Mr. Freedman reported that he met with Noel Spindler of the Board of Physician Quality Assurance (BPQA), who has informed him that their Board is two weeks away from licensing Physician Assistance to be authorized to prescribe. Mr. Freedman stated that BPQA will be regulating these Physician Assistants. Mr. Freedman stated that it would take at least six (6) to eight (8) weeks for federal DEA licenses to be issued. Mr. Freedman also stated that a Physician Assistant only has to be indirectly supervised which would mean, the Doctor for whom the assistant works could supervise from his home.

Dr. Love stated that he would like the Board to make clear with BPQA that we need to communicate with both pharmacists and permit holders information on P.A. prescribing authority including a way to know which P.A.'s can prescribe. Mr. Freedman further stated that he would keep Ms. Andoll up to date regarding this matter.

Mr. Rubin reported that I. Earl Kerpleman, Past Board President, Robert Snyder past pharmacist, Board member and past consumer member, Ted Litwin died in the past month.

Mr. Rubin reported on several vacant/new positions within the Board which are:

Executive Director - the Board is hoping to advertise for this position as soon as it has been determined the category this position will fall under, i.e. classified or special appointment.

Data Base Specialist - The Board has hired Arthur Rolles .

Legislative Officer - Mr. Rubin reported that at our last Board meeting, Ms. Ayn Hoyt was reported last month to be the new Legislative Officer; unfortunately, Ms. Hoyt has declined the offer. The Board is hoping to fill this position as soon as possible. Mr. Rubin reported that Harold Gordon, Board of Social Work, will assist in filling this position, which is split between the two Boards.

Administrative Officer II - this is a new position. This positions main function will be directed to budgeting. Ms. Cornish, Licensing Supervisor, has been asked to consider this position, but has not made a definite decision. If Ms. Cornish accepts this position, the Board will need to fill her position as the Licensing Supervisor.

Pharmacy Compliance Officer Assistant - when this position was posted, one of the requirements was to be a pharmacist. There have not been any acceptable candidates. The Board has decided to revise the qualifications so that candidates would not have to be a pharmacist.

Mr. Rubin reported that he has been in contact with Dr. Palumbo, of the University of Maryland School of Pharmacy, who volunteered to revise the law book which is distributed by the Maryland Pharmacists Association with the Board's approval, by the end of the year 2000. The revision would include additional topics not listed in the current law book.

The quarterly meeting with the School of Pharmacy scheduled for October 21, 1999 has been canceled.

Mr. Rubin reported that the National Association for Boards of Pharmacy (NABP) is currently seeking a representative for the "American Council on Education" (ACPE), who would be interested in serving a six (6) year term. The qualified person must be an active member of the State Board of Pharmacy.

Ms. Pease stated that she is currently a member of the subcommittee/Task Force in the Senate Economic Affairs. This committee/task force meets every two (2) weeks to discuss patient confidentiality and existing laws. The committee members are: Senator Hollinger, Senator Pensky and Senator Harris, and all other health insurance representatives.

Ms. Andoll reported that she was contacted by Julie Karpe, a representative from WBAL Television station, who reportedly found confidential patient medical information such as patient

labels being thrown in public trash bins. On October 8, 1999, Ms. Andoll interviewed with David Collins, WBAL News Reporter, where she responded to these issues by stating that pharmacists need to be aware that confidential patient information may be part of their trash and pharmacists need to take necessary steps to prevent the access of this information to unauthorized persons. Shredding papers and segregating labeled prescriptions vials were suggested.

Dr. Love suggested putting a blurb in the newsletter reminding pharmacists of appropriate ways to handle disposal of patient information.

Mr. Rubin reported that John Patti, Broadcaster, WBAL Radio, is doing an article on prescription errors.

Guest Presenter - Steven Cohen, Medstar

Medstar Hospital group owns a company named Extencare, which provides patient specific IV solutions for Medstar patients. In order to be able to purchase at preferential pricing, Medstar would like the Board to give them a hospital pharmacy waiver license. The Board agreed to consider the request in the Licensing Committee.

Board Counsel's Report

Distributor's License for Brokers - letter from Bob Chang -

The Board issues distributor permits to brokers who claim not to physically possess or handle drugs. The drugs are shipped directly from the supplier to the purchaser. Mr. Freedman stated that a broker usually obtains special pricing for a client but does not necessarily handle any product. Mr. Freedman stated that traditionally, the Board would license them as a distributor assuming that at some point they could take possession of medications. Some brokers claim that they never take possession of medications. Mr. Freedman stated that there are two (2) avenues which the Board can take. If the broker is licensed as a distributor, he has the ability to possess drugs and therefore must be in compliance with the regulations regarding storage and security. The alternative would be to have the broker sign an agreement with the Board indicating that he will not take possession of drugs. Mr. Ballard concurred with Mr. Freedman and suggested adding to the letter a statement that would read, "Your license limits you to drop shipping drugs." If the agreement is broken, then the broker has agreed in advance that his distributor's permit shall be null and void.

Committee Reports

Licensing Committee - Reciprocity -

Mr. Dyke reported that there were seventeen (17) candidates for the reciprocity meeting held on Tuesday, October 19, 1999. The candidates were as follows: Yitbark Abebe, Olufunke Awojobi, Anthony Bell, Ann Borell, Leslie Cheney, Mayowa Durojaye, Nada Haddad, Beverly

Hawkins, Cynthia Johannes, San Joo, Frank Tak Ming Leung, Mary Massoud, Darshna Patel, Julia Wilson, Christa Hooper Wood, David Wood Jr., and Jeremy Zellers. Mr. Dyke motioned that all candidates be approved with the exception of Nada Haddad, Cynthia Johannes and San Joo, all of whom needed to complete the Oral English Competency Examination and would be licensed once the oral exam has been approved. The motion was seconded by Ms. Jackson, with a unanimous decision from the Board.

CE Law First Renewal following graduation -

Mr. Dyke reported that the Wet Laboratory Examination was given on October 12, 1999 to eighteen (18) candidates and one (1) reinstatement. Mr. Dyke stated that the results of this examination are still pending. Mr. Dyke reported on the Licensing Committee Meeting held September 21, 1999.

Mr. Dyke stated that a survey was sent to other states to determine how they would handle temporary location sites, renovations and disaster situations. Mr. Dyke stated that the survey contained no definitive answers, but the Board can use submissions to model our regulations. The Board would handle these types of situations on a case by case basis. Mr. Dyke stated that the committee decided that regulations are not required for renovations, however, the committee requested that DDC continue inspecting the temporary sites.

Ms. Jackson motioned for the Executive Committee to take on the responsibility and decision making of handling temporary sites for both renovations and disasters. Donald Yee seconded the motion, with a unanimous decision from the Board.

Correcting Renewal Year Oct., Nov., Dec., Birth months

The Pharmacy Practice Act states that a pharmacist renewing for the first time would not have to submit Continuing Education (CE) credits, and that a pharmacist license can not be issued for more than two years. For that reason, the Board decided that new pharmacist graduates that were first licensed in 1997, who renewed in 1998 to prevent them from receiving a license for more than twenty-four (24) months, would only need CE credits for the months that exceeded the normal twenty-four (24) month cycle, when renewing in 1999. These applicant would owe 1.25 credits per month for October, November and December.

Mr. Dyke stated that about one hundred (100) applicants had licenses issued for the wrong expiration year (decided by odd/even dates). Mr. Dyke suggested that regulations be established to allow a correction for those licensees. This would require that some persons renew one year before they normally would, and the Board agreed to offer relicensure at no charge, although it is possible that the HCACC fee would have to be charged. The Board discussed whether or not it would allow the renewal fee to be waived and whether the Board would pay the HCACC fee for each pharmacist affected by this error. Mr. Dyke stated that the Board would need to confer with Bridget Jeffers, contact person for HCACC. Mr. Dyke stated that if the Board does decide

to waive the renewal fee, it will not waive the CE's due for the renewal period. Ms. Jackson motioned to accept Mr. Dykes committee report. Ms. Hawkins seconded the motion, with a unanimous decision from the Board. The committee will draft regulations to present to Ann Jeffers, regulations Coordinator

Regulation Update -

Mr. Rubin submitted a written FYI report. There were no comments made on the regulation update report.

Unlicensed Personnel (10.34.10A) -

Mr. Rubin suggested two (2) changes in this regulation: page two (2), .03b1, would read "receive appropriate training for the tasks which the pharmacist assigns Unlicensed Personnel to perform as part of the prescription process." Page three (3), add new ".03F" to read "Document the training required to allow unlicensed persons to perform functions in the prescription process." "Old .03F and .03G" would now become ".03G and .03H."

Dr. Love suggested the regulations be changed to allow the unlicensed person to combine and measure ingredients, but that they not be authorized to compound as such. These are steps in compounding. Mr. Ballard stated that you cannot delegate any task that falls under the "Practice of Pharmacy." Dr. Love also suggested sending the regulations back to the committee for review. Dr. Love further suggested changing the language in ".04B to not refer to "pharmaceutical task" and replace the word "delegate" by "assign".

Format of Prescriptions -

Mr. Rubin reported that new language is being drafted.

Reinstatement of Expired Licenses for Pharmacists (10.34.13) -

The comment period for this regulation expired September 13, 1999. No comments were made. Notice of final action has been sent to the Secretary.

Pharmacists Education and Assistance Committee (PEAC) -

Mr. Rubin reported that PEAC is doing a CE program at Maryland Society of Hospital Pharmacists (MSHP), involving reducing risk among practitioners.

Pharmacy Practice Committee -

Dr. Love reported that the committee met on October 6, 1999. There is a concern about open matrix drawers in automatic dispensing systems and whether the Board should consider not

allowing them. The committee is currently debating this issue. Several members of the committee felt that allowing open matrix drawers is similar to allowing floor stock and that there is a false sense of security that goes along with this. Dr. Love stated that when the committee reviewed reports of medication errors, all of the fatal incidents of automatic dispensing involved open matrix drawers. Some facilities feel that they have adequate safeguards in place. Dr. Love stated that it may become a burden to outlaw open matrix drawers. The next meeting of the Pharmacy Practice Committee will be on November 3, 1999, 4201 Patterson Avenue, Baltimore, MD 21215, room 100.

Medication Error Prevention Project -

Mr. Yee stated that there is no report at this time. The committee is planning to meet in November 1999.

Conscience Clause Committee -

Ms. Schneider reported that the committee met on October 21, 1999. Ms. Schneider stated that the committee is concerned about MPhA suggestions for Conscience Clause language. Ms. Pease stated that she received a comment suggesting that it was more of an employer issue. The committee agreed that it is an employer issue not a pharmacy issue. Dr. Love stated that currently the Board has knowledge of at least one chain which is not stocking or ordering the "morning after pill". Dr. Love stated that this is a deliberate policy to not stock this product, contrary to pharmacy laws. Mr. Rubin suggested sending a letter to that chain asking them to justify their actions.

Dr. Love stated that there is a state law that says that a physician is not obligated to perform an abortion; neither is a nurse required to be involved in the procedure. We do not have a law that says a pharmacist does not have to fill prescriptions related to this procedure or issue. Ms. Schneider suggested having the Board student Hyun Lee to send out a survey to other states to determine what actions they have taken regarding this issue.

Dispensing by Health Department Nurses -

Ms. Andoll reported that a medication error occurred involving the Prince Georges and Montgomery County Health Department where a nurse ordered Bicillin CR instead of Bicillin LA. As a result of this error, patients were treated with the wrong medication. The incident was reported in the Monthly Morbidity World Report (MMWR). Prince Georges County stated that Nurse Practitioners and Physicians are involved in the drug selection process, and that no pharmacists are involved. Dr. Love motioned to send a letter to DHMH reminding them that these types of incidents may be prevented if pharmacists are used in the drug selection process and urge the local Health Department to consider having a pharmacist on staff. The motion was seconded by Ms. Jackson, with a unanimous decision from the Board. The letter should be to the attention of Russ Moy, copy to Dr. Benjamin, Arlene Stevenson and Carlissa Hussain.

Narrow Therapeutic Index Drugs -

There was no report.

Public Relations Committee/Council of Boards Report -

Committee Selection from Media RFP's & initial Projects -

Ms. Jackson reported that the committee met on October 13, 1999 in which the status of the contract was discussed. The Reeves Agency was selected for the Media Campaign project. The oversight committee meeting has been set for November 1, 1999, at 4:30/5:00p.m. at The Reeves Agency. Ms. Jackson indicated that The Reeves Agency has done advertisements for Neighborcare and for the Mass Transit Administration Service (MTA). Ms. Jackson stated that the Oversight Committee must consist of representatives from the Poison Center, Maryland Pharmaceutical Society, American Society of Consultant Pharmacist and MPhA.

Y2K Statement -

Ms. Jackson stated that the statement has been approved by Dr. Benjamin, Secretary of DHMH. Ms. Wilson created a brochure which was faxed to the Maryland Teachers Association (MTA) for reproduction and distribution. This organization has a total membership of at least seventy thousand (70,000). Mr. Rubin stated that the Board is having one hundred and twenty five thousand (125,000) copies of the Y2K brochure printed. These brochures will be sent out to chains and state office buildings for distribution. The estimated cost for these brochures is four thousand (4,000) dollars.

Internet Site -

Ms. Jackson motioned that the chair of each committee present any information regarding the Board's Internet site to the Executive Committee for final approval. Donald Yee seconded the motion, with a unanimous decision from the Board.

Advertise for Pharmacists to Reciprocate to Maryland -

No Report

Council of Boards Meeting Report -

This meeting will take place the first week in November 1999. Budget concerns and spacing will part of the discussion. Ms. Jackson motioned for acceptance of the Public Relations Committee / Council of Boards Report. Donald Yee seconded the motion, with a unanimous decision from the Board.

Budget Committee -

The first quarter projection will be due soon for the period of July - September 1999. Mr. Lottier reported on several area, which were:

Surplus- seventeen (\$17,000) dollars for approximately seven (7) months of savings from the Legislative Officer's position which has been vacant since July 1999; seventeen (\$17,000) dollars for four (4) months of savings from the Executive Director's position, which has been vacant since October 1999. If not filled until February, 2000 a savings of nine hundred and seven thousand (\$9,700) dollars for the part-time Pharmacist Assistant position. The Board is considering downgrading this position to a technician; in which case there will be an additional savings. Fourteen thousand (\$14,000) dollars savings for the Office Secretary II position, which has been vacant since the end of August 1999, and is expected to be filled by January 2000.

Mr. Lottier also reported on several unexpected outstanding expenses that totaled about sixty thousand (\$60,000) dollars. Mr. Lottier stated that the Board's vacant salary positions will cover most of the cost for these outstanding expenses.

Questions for the Board

None

Informational

Letter to Carmen A. Catizone -

Kroger Drugs requested NABP to allow reciprocity candidates to work as pharmacists while their reciprocity application is pending. The Board agreed that this request is inappropriate and suggested that a letter be sent to NABP stating that.

Meeting adjourned at 12:34 P.M.

Respectfully Submitted,

W. Irving Lottier, Jr.
Secretary